

### **REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-19 are pending in the present application. Claims 1, 5, 9, and 12 are independent claims. The Examiner is respectfully requested to reconsider the outstanding rejections in view of the following remarks.

#### **Allowable Subject Matter**

It is gratefully acknowledged that the Examiner has allowed claims 1-4 and 6-11, and considers the subject matter of claims 13 and 15-19 as being allowable if rewritten in independent form.

#### **Rejection Under 35 U.S.C. § 103**

Claims 5, 12, and 14 stand rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 5,319,497 to Wakabayashi et al. (hereafter "Wakabayashi") in view of U.S. Patent No. 6,044,048 to Oinoue et al. (hereafter "Oinoue"). This rejection is respectfully traversed.

M.P.E.P. § 2143.03 sets forth the following requirements for a proper rejection under 35 U.S.C. § 103:

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)."

Applicant respectfully submits that the proposed combination of Wakabayashi and Oinoue fails to provide a teaching or suggestion of all of the features in the claimed invention.

In particular, independent claim 5 recites, "an inclination drive unit for, according to said information about said inclination [outputted by the light detector], turning said lens holder on a first axis perpendicular to said support shaft." Similarly, independent claim 12 recites, "an

inclination drive unit configured to turn said lens holder on a first axis perpendicular to said support shaft based on information from said light detector.” Applicants submit that Wakabayashi and Oinoue fail to teach or suggest these features.

In the rejection, the Examiner relies on Wakabayashi to disclose the aforementioned feature. Specifically, the Examiner relies on the lens drive coils and magnets of Figs. 4 and 5, asserting that “[the] coils and magnets are the driving force which turns/rotates the lens holder 2 in the direction  $\theta$  which is perpendicular to the vertical axis 11a” (Office Action at page 4; emphasis added). Applicants respectfully disagree.

Specifically, Applicants point out the following teaching in col. 4, lines 61-65, of Wakabayashi:

“Due to a system limitation, the inclination angle of the axis O of the objective lens assembly 1, and hence of the objective lens assembly 1 itself and the axis 11 of the lens holder 2 relative to a reference axis  $O_a$  has to be 1.7 mrad or smaller.”

Wakabayashi teaches that  $\theta$  represents this maximum allowable inclination angle, as discussed in col. 5, lines 4-7:

“the maximum angle of inclination of the axis 11 of the lens holder 2 relative to the reference axis  $O_1$  and guide tearing axis, as shown in Fig. 5, is expressed by  $\theta$ .”

Wakabayashi merely uses this maximum inclination angle  $\theta$  is used for calculating an appropriate length of the guide bearing 5 (see col. 5, lines 11-24). Applicants submit that Wakabayashi fails to teach or suggest that the lens drive device is used for changing the inclination angle of the objective lens in the direction  $\theta$  based on any particular information, as asserted by the Examiner.

In fact, Wakabayashi’s lens drive device is only designed to move the objective lens in a tracking direction A and focusing direction B. See col. 5, lines 31-51. As shown in Figs. 1 and 2,

the **tracking direction A turns around the vertical axis**, while **focusing direction B is vertical**.

Accordingly, it is respectfully submitted that Wakabayashi fails to teach or suggest a drive unit for turning the lens holder **on an axis perpendicular to the support shaft**, as required by claims 5 and 12.

Applicants respectfully submit that claims 5 and 12 are allowable at least for the reasons set forth above. Applicants further submit that claim 14 is allowable at least by virtue of its dependency on claim 12. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### **Conclusion**

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Should the Examiner believe that any outstanding matters remain in the present application, the Examiner is respectfully requested to contact Jason W. Rhodes (Reg. No. 47,305) at the telephone number of the undersigned to discuss the present application in an effort to expedite prosecution.

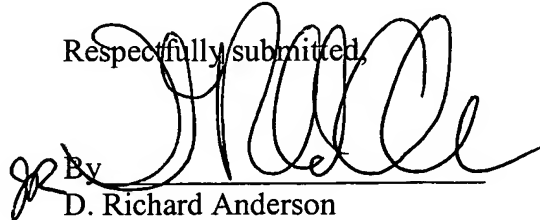
Application No. 10/021,000  
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Reply to Office Action of January 18, 2006

Docket No.: 2257-0202P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

**Dated: April 4, 2006**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Anderson", written over a horizontal line.

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